

Editorial: Ruling may not be last word on state redistricting

The state Supreme Court accepted the redistricting panel's work, but limited the scope of its ruling.

Everett Herald

December 7, 2021

By The Herald Editorial Board

The Supreme Court of Washington — in ruling unanimously last week to accept the maps for legislative and congressional districts that had been agreed to by the state's redistricting commission — acted with due deference toward a political process that should be a model for other states that are now embroiled in disputes alleging partisan gerrymandering of district boundaries.

The nine-member court was called in for a review only after it appeared that the bipartisan commission — made up of two Democrats, two Republicans and an nonpartisan and nonvoting chair — had missed its statutory deadline to complete its work by 11:59 p.m. Nov. 15.

To borrow from referees in other contests: "The call on the field stands."

But the refs' work may not be done, considering legal challenges to the maps and the commission's process that already have been filed or may soon be filed.

For now, the clock and play resume.

"The court concludes that the primary purpose of achieving a timely redistricting plan would be impeded, not advanced, by rejecting the Commission's completed work," Chief Justice Steven González wrote in the [five-page ruling](#), issued Friday.

The court found that the commission's voting members had — prior to the deadline — agreed to the two maps, even though the panel failed to transmit those maps to state lawmakers, as the law requires, by the same deadline.

Rejecting the agreed-upon maps — on the technicality of a deadline missed by a few minutes — González wrote in the ruling, would delay the timely completion of the redistricting process, which is required every ten years, following the federal census to better balance the populations of each state's legislative and congressional districts.

Time will be of the essence; the state law allows for the Legislature to make minor adjustments to boundaries — affecting less than 2 percent of a district's population — within the first 30 days of the next legislative session, which begins Jan. 10. That process, however, requires approval by a two-thirds majority. After that 30 days — barring further legal challenges — the maps are set as of the 2022 elections for the next decade.

Those maps have to be official in time for candidates for legislative and congressional races to begin filing for elections on May 16.

Under the new maps, many Snohomish County voters will see changes to their districts and their representatives. Among the more significant changes, county residents in the 7th Congressional District will be in the 1st District or 2nd District. Those living in the east county 1st District towns of Darrington, Sultan, Gold Bar and Index will be part of the 8th District.

There are similar moves for legislative districts, with Lake Stevens moving from the 44th District into the 39th; and Monroe, Sultan, Gold Bar and Index lifted from the 39th District and set down in a reconfigured 12th District that will straddle the Cascades to join Chelan County towns.

Why the courts might still be called on to blow their whistles is found in one line in the ruling: "The court has not evaluated and does not render any opinion on the plan's compliance with any statutory and constitutional requirements other than the November 15 deadline."

That's like expecting Seahawk Head Coach Pete Carroll to throw his challenge flag.

At least one of the challenges concerns the legislative map, while the other has to do with the commission's final hours, during which it adopted both maps, but did so largely out of the public's eye.

The first questions whether the legislative map will meet the requirements of the federal Voting Rights Act and creation of a district that would fairly represent the Yakima Valley's Latino population and voters. Monday, the Justice Department filed suit against Texas, alleging its Republican-drafted redistricting plan diluted the votes of Black and Latino voters.

Meanwhile, one suit has been filed and another is expected on the grounds that the commission violated the state's Open Public Meetings Act. In its final hours, little of the commission's deliberations were carried out in public session as is required by the act.

Rather than deliberate in open session, the two party caucuses met separately in executive sessions, skirting the law's quorum rules, and worked to reach agreement outside of public view. As well, the commission failed to release the maps for public review and comment prior to its vote to adopt them. Maps were not released until nearly a day after they had been adopted by the panel.

The commission admittedly was working under a compressed timeline and extraordinary circumstances out of concern for public health during the pandemic, but those factors don't permit the commission to violate state law. The panel's final deliberations needed to budget ample time for the public and voters — those most affected by its decisions — to have time to consider the maps and either voice objections or support before a final vote.

Considering the success the process had shown in encouraging public participation in the process — including 17 public outreach meetings, 22 commission meetings, public testimony of more than 400 residents and 2,750 comments regarding draft maps — the panel's final hours behind closed doors showed disrespect for the public's efforts to guide the redistricting process.

"The actions of the commission clearly violated the Open Public Meetings Act and that renders their action invalid, in our judgment," Mike Fancher, president of the Washington Coalition for Open Government, told Crosscut on Friday. "This just can't be allowed to stand, the way it happened."

Moving forward, both maps may indeed be what we will use in choosing our representatives, but skipping over the public's right to hear how those maps were agreed to and to make final comments on the fairness of the maps' boundaries should not be excused with the explanation of "no harm, no foul."

There should be a flag on the play.